

1 Jun Dam (*Pro Se*)
2 237 Kearny #9096
3 San Francisco, CA 94108
4 Phone: (415) 748-1113
5 Email: jundam@hotmail.com

The Honorable Frederick P. Corbit
Chapter 11

6 **UNITED STATES BANKRUPTCY COURT**
7 **EASTERN DISTRICT OF WASHINGTON**

8
9 In re:

10 GIGA WATT INC.,

11 Debtor
12
13
14

Case No. 18-03197-FPC

**MOTION TO REQUEST
RECONSIDERATION OF ORDER
AWARDING COMPENSATION
FOR SERVICES RENDERED
PURSUANT TO 11 USC §330 OR §331**

15
16 **NOTICE**

17 **PLEASE TAKE NOTICE** that creditor Jun Dam, in propria persona, has moved for an order
18 granting a request for reconsideration of the order awarding compensation for services for Mark
19 D. Waldron. **IF YOU OPPOSE** the Motion you must file your written response with the court
20 clerk, and request a hearing at P.O. Box 2164, W. 904 Riverside, Room 321, Spokane, WA 99210
21 on or before the response date, which is September 3rd, 2020. **YOU MUST ALSO** serve a copy
22 of any objection on the undersigned at 237 Kearny St. #9096, SF, CA 94108; on the Chapter 11
23 Trustee; and on the Office of the United States Trustee. **IF NO RESPONSE IS TIMELY**
24 **FILED AND SERVED**, the Court may, in its discretion, **GRANT THE MOTION WITHOUT**
25 **A HEARING AND WITHOUT FURTHER NOTICE.**
26

MOTION

COMES NOW creditor Jun Dam, in propria persona, moves to request the Court for reconsideration of the order awarding compensation for services for Mark D. Waldron.

ARGUMENT

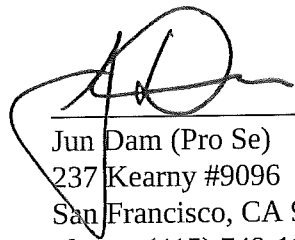
THE COURT ABUSED ITS DISCRETION WHEN IT DID NOT CONSIDER THE NATURE, THE EXTENT, AND VALUE OF TRUSTEE SERVICES, TAKING INTO ACCOUNT ALL RELEVANT FACTORS TO DETERMINE COMPENSATION AS MOVANT ASSERTED IN HIS OBJECTION (DOCKET NO. 661)

See attached Exhibit A.

CONCLUSION

WHEREFORE, The Court should reverse its order to award compensation until Mark D. Waldron submits time records and a detailed narrative statement for services.

Dated this 11th day of August, 2020



Jun Dam (Pro Se)
237 Kearny #9096
San Francisco, CA 94108
Phone: (415) 748-1113
Email: jundam@hotmail.com

Exhibit A - Objection (Docket No. 661)

1 Jun Dam (*Pro Se*)
2 237 Kearny #9096
3 San Francisco, CA 94108
4 Phone: (415) 748-1113
Email: jundam@hotmail.com

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6 **UNITED STATES BANKRUPTCY COURT**
7 **EASTERN DISTRICT OF WASHINGTON**

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10 In re:

11 GIGA WATT INC.,

12 Debtor

Case No. 18-03197-FPC

**OBJECTION TO TRUSTEE'S (1)
APPLICATION FOR AWARD OF
COMPENSATION AND (2) MOTION
FOR AN ORDER AUTHORIZING
PAYMENT OF PREVIOUSLY
AWARDED BUT UNPAID
COMPENSATION**

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16 **MOTION**

17 **COMES NOW** creditor Jun Dam, in propria persona, moves to request the Court to deny
18 Trustee's application of award of compensation and Motion to authorize payment of
19 compensation.
20

21 **ARGUMENT**

22
23 **I. THE COURT SHOULD CONSIDER THE NATURE, THE EXTENT, AND VALUE OF**
24 **TRUSTEE SERVICES, TAKING INTO ACCOUNT ALL RELEVANT FACTORS TO**
25 **DETERMINE COMPENSATION**
26

1 Trustee Waldron has calculated compensation based on the maximum allowed under 11 U.S.
2 Code § 326 instead of what is 'reasonable' under § 330. For Chapter 11 Trustees, the court
3 should consider all the following relevant factors pursuant to § 330(a)(3),(4):

4 (3) In determining the amount of reasonable compensation to be awarded to an examiner,
5 trustee under chapter 11, or professional person, the court shall consider the nature, the
6 extent, and the value of such services, taking into account all relevant factors, including—

7 (A) the time spent on such services;

8 (B) the rates charged for such services;

9 (C) whether the services were necessary to the administration of, or beneficial at
10 the time at which the service was rendered toward the completion of, a case under
11 this title;

12 (D) whether the services were performed within a reasonable amount of time
13 commensurate with the complexity, importance, and nature of the problem, issue,
14 or task addressed;

15 (E) with respect to a professional person, whether the person is board certified or
16 otherwise has demonstrated skill and experience in the bankruptcy field; and

17 (F) whether the compensation is reasonable based on the customary compensation
18 charged by comparably skilled practitioners in cases other than cases under this
19 title.

20 (4)

21 (A) Except as provided in subparagraph (B), the court shall not allow
22 compensation for—

23 (i) unnecessary duplication of services; or

24 (ii) services that were not—

25 (I) reasonably likely to benefit the debtor's estate; or

26 (II) necessary to the administration of the case.

In *re McKinney*, 374 B.R. 726 (Bankr. N.D. Cal. 2007), the court asserted:

"Section 330(a)(3) requires the commission of chapter 11 trustees to be calculated under a
Lodestar approach."

The BAP court asserted *In re Mednet*, 251 B.R. 103 (B.A.P. 9th Cir. 2000):

"A bankruptcy court also must examine the circumstances and the manner in which
services are performed and the results achieved in order to arrive at a determination of a

1 reasonable fee allowance. Such examination, in general, should include the following
2 questions: First, were the services authorized? Second, were the services necessary or
3 beneficial to the administration of the estate at the time they were rendered? Third, are the
4 services adequately documented? Fourth, are the fees requested reasonable, taking into
5 consideration the factors set forth in § 330(a)(3)? *See Unsecured Creditors' Comm. v.*
6 *Puget Sound Plywood, Inc.*, 924 F.2d 955, 957-58 (9th Cir. 1991). Finally, in making this
determination, the court must take into consideration whether the professional exercised
reasonable billing judgment.”

7
8 Also the BAP court noted:

9 “In Puget Sound, the Ninth Circuit stated that in performing services, the professional is
10 required to evaluate the following:

11 (a) Is the burden of the probable cost of legal services disproportionately large in
12 relation to the size of the estate and maximum probable recovery?

13 (b) To what extent will the estate suffer if the services are not rendered?

14 (c) To what extent may the estate benefit if the services are rendered and what is the
15 likelihood of the disputed issues being resolved successfully?

16
17 *Id.* at 959. The Ninth Circuit concluded: “[The attorney] had an obligation to consider the
18 potential for recovery and balance the effort required against the results that might be
19 achieved. Absent unusual circumstances, an attorney must scale his or her fee at least to
the reasonably expected recovery.” *Id.* at 961.”

20 The BAP court further asserted:

21 “As stated in *In re Riverside-Linden Investment Co.*, 925 F.2d 320, 321 (9th Cir. 1991),
22 “[w]hen a cost benefit analysis indicates that the only parties who will likely benefit
23 from [a service] are the trustee and his professionals,” the service is unwarranted and
24 a court does not abuse its discretion in denying fees for those services (citation and
internal quotation marks omitted).”

1 The Court should also consider the following:

2 1) Most of the revenue the estate has generated was due to the Trustee's unauthorized use of
3 WTT token owner hosting facilities and miner machine owners equipment who are entitled to
4 compensation for their contributions as an administrative award or alternatively as compensation
5 from a breach of contract. Hence the cash available from the estate to pay for legal
6 administration fees should be far lower than reported.

7
8 2) The Trustee's sale of TNT facilities, lease and power contract to EcoChain, LLC for less than
9 salvage value has significantly harmed creditors and eliminated the potential for WTT token and
10 mining machine owners, who comprise 80-90% of all the creditors both in number and claim
11 size, to obtain substantial recovery by retaining hosting rights to Debtor's facilities and their
12 machines.

13
14 3) Creditor Dam has filed a complaint Adv. Proc. No. 20-80020 against the Trustee for breach of
15 contract, breach of fiduciary duty, professional negligence and unjust enrichment and that case
16 should be disposed before any Trustee compensation is awarded or paid.

17
18 4) The administrative legal fees that have accrued in this bankruptcy are likely to be substantially
19 greater than the total value of the estate assets. The Debtor is no longer operating as a going
20 concern and is effectively operating under a Chapter 7 liquidation. There are very few prospects
21 for any substantial estate recovery aside from lengthy and expensive litigation that should be
22 pursued on contingency. Although the Trustee and counsel have recently begun investigation
23 into Perkins Coie for a breach of escrow, the estate may not even have standing to litigate. WTT
24 token owners placed their money in escrow and have standing against Perkins Coie and Dave
25 Carlson. Hence the Court should carefully scrutinize all the Trustee activities to determine what
26 activities were necessary and beneficial to the estate in the past as well as going forward.

1 **CONCLUSION**

2 **WHEREFORE**, the Court should deny the Trustee's 1) application for award of compensation
3 and 2) and Motion to authorize payment of compensation until Trustee submits time records and
4 a detailed narrative statement for services so the Court can consider the nature, the extent, and
5 value of Trustee services, taking into account all relevant factors to determine compensation.
6

7 Dated this 27th day of July, 2020
8

9 /s/ Jun Dam
10 Jun Dam (*Pro Se*)
11 237 Kearny #9096
12 San Francisco, CA 94108
13 Phone: (415) 748-1113
14 Email: jundam@hotmail.com
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CERTIFICATE OF SERVICE

I certify that a copy of this **OBJECTION TO TRUSTEE'S (1) APPLICATION FOR
AWARD OF COMPENSATION AND (2) MOTION FOR AN ORDER AUTHORIZING
PAYMENT OF PREVIOUSLY AWARDED BUT UNPAID COMPENSATION** was served
by mail on the persons listed below:

Pamela Egan, The Potomac Law Group
Attorney for Mark D. Waldron, Chapter 11 Trustee
1905 7th Ave W
Seattle, WA 98119

Giga Watt Inc. - Chapter 11 Trustee
Mark D. Waldron
6711 Regents Blvd Ste B
Tacoma, WA 98466-5421

An electronic copy was also emailed to:
Ben Ellison as attorney for the OCUC - Salishsealegal@outlook.com
The United States Trustee - James.Perkins@usdoj.gov
Samuel Dart as attorney for CCWTHM - sdart@eisenhowerlaw.com

Date Served: 7/27/2020

Sign your name: Jun Dam

Print name: Jun Dam

CERTIFICATE OF SERVICE

I certify that a copy of this **MOTION TO REQUEST RECONSIDERATION OF ORDER
AWARDING COMPENSATION FOR SERVICES RENDERED PURSUANT TO 11 USC
§330 OR §331** was served by mail on the persons listed below:

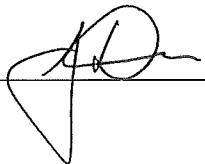
Giga Watt Inc. - Chapter 11 Trustee
Mark D. Waldron
6711 Regents Blvd Ste B
Tacoma, WA 98466-5421

Notice will be electronically mailed to:

Ben Ellison, on behalf of the Official Committee of Unsecured Creditors - salishsealegal@outlook.com,
benaellison@gmail.com
James D Perkins on behalf of The United States Trustee - James.Perkins@usdoj.gov
Samuel Dart as attorney for Creditors' Committee of WTT Token Holders and Miners - sdart@eisenhowerlaw.com
Quentin D Batjer on behalf of Port of Douglas County - pam@dadkp.com, quentin@dadkp.com
William L Hames on behalf of Port of Douglas County - billh@hawlaw.com, mecqueh@hawlaw.com,
juliem@hawlaw.com, frontdesk@hawlaw.com, carmenb@hawlaw.com, katies@hawlaw.com
David R Law on behalf of Port of Douglas County - david@dadkp.com, amy@dadkp.com
Shauna S Brennan on behalf of ECO Diversified Holdings, Inc. - sbrennan@outsidegeneralcounsel.com,
admin@outsidegeneralcounsel.com
Robert H Castro on behalf of Interested Party Nathan Welling - rcastro@rcastrorlaw.com, castro.ava@gmail.com
Adam C. Doupe on behalf of Interested Party Allrise Financial Group - doupe@ryanlaw.com,
doupear96329@notify.bestcase.com
Gary W Dyer on behalf of US Trustee - gary.w.dyer@usdoj.gov
Pamela Marie Egan on behalf of Trustee Mark Waldron - pegan@potomacclaw.com
Scott B Henrie on behalf of Creditor Refael Sofair - shenrie@williamskastner.com, dlevitin@williamskastner.com
Douglas A. Hofmann on behalf of Creditor Refael Sofair - dhofmann@williamskastner.com,
kmejia@williamskastner.com
Gretchen J. Hoog on behalf of Emerald City Statewide LLC - ghoog@pcslegal.com, danderson@pcslegal.com
David Kazemba on behalf of Creditor Giga Plex, LLC and MLDC1, LLC - dkazemba@overcastlaw.com,
amber@overcastlaw.com, lindat@overcastlaw.com, debbie@overcastlaw.com;
kazembadr92395@notify.bestcase.com
John Knox on behalf of Creditor Refael Sofair - jknox@williamskastner.com, nelson@williamskastner.com
Angie Lee on behalf of Creditor Washington State Taxing Agencies - bculee@atg.wa.gov
Benjamin J McDonnell on behalf of Clever Capital, LLC, David M Carlson, Enterprise Focus, Inc. -
ben@pyklawyers.com, lauren@pyklawyers.com, eboudreau@pyklawyers.com, ncross@pyklawyers.com
Kathryn R McKinley on behalf of Creditor Douglas County PUD
kathryn.mckinley@painehamblen.com, ads@painehamblen.com
Danial D Pharris on behalf of Creditor NC Machinery Co. - pharris@lasher.com, lukesetich@lasher.com
Jason T Piskol on behalf of Clever Capital, LLC, David M Carlson, Enterprise Focus, Inc. -
jtp@pyklawyers.com

1 Christopher F Ries on behalf of Creditor Neppel Electrical & Controls, LLC - diana@rieslawfirm.com,
2 cdg@rieslawfirm.com, carrie@rieslawfirm.com
3 Vanessa Pierce Rollins on behalf of Clever Capital, LLC, David M Carlson -
4 vprollins@gmail.com
5 Joseph A. G. Sakay on behalf of Interested Party Allrise Financial Group
6 sakay@ryanlaw.com, docketing@ryanlaw.com
7 Dominique R Scalia on behalf of Attorney DBS Law
8 dscalia@lawdbs.com, paralegal@lawdbs.com
9 Tara J. Schleicher on behalf of interested party EcoChain, Inc.
10 tara.schleicher@foster.com, kesarah.rhine@foster.com
11 US Trustee
12 ustp.region18.sp.ecf@usdoj.gov
13 Mark Waldron
14 trustee@mwaldronlaw.com, mark@mwaldronlaw.com
15 Brian A. Walker on behalf of Defendant Jeffrey Field
16 bwalker@omwlaw.com, rgrim@omwlaw.com
17 Scott Weaver on behalf of Creditor Executive Flight, Inc.
18 weaver@carneylaw.com, fuhrmann@carneylaw.com
19

20 Date Served: 8/11/2020

21 Sign your name: 

22 Print name: Jun Dam
23
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26